

## ARGUMENTS AGAINST THE REJECTION

Claims 36-60 have been rejected under the Judicially-Created Doctrine of Obviousness-Type Double Patenting over Claims 1-31 of Commonly Assigned U.S. Patent No. 6,588,750.

This rejection has been overcome by the attached Terminal Disclaimer. This rejection is now moot as a matter of law.

Claims 44-60 have been rejected under 35 USC 102(b) as anticipated by Kelley (US Patent No. 5,431,399). It is asserted that each and every limitation of the claims is anticipated by Kelley.

### **The Examiner's Comments on Page 3 of the Final Rejection**

The final rejection asserts, with natural emphasis that:

“...Kelley discloses an apparatus for delivering hands of randomly mixed cards. A deck of playing cards is provided in a loading area 2, 3, 4. An area 24 in the apparatus comprising a pinch roller 19, photo sensor 20, processor 26, motor 21, and displacement cam 22, **distributes the cards contributing to the forming** of at least one set (hand) of playing cards...col. 7, line 44 to col. 8, line 7. The apparatus further comprises a plurality of delivery trays or card receiving compartments 12. Thus there is **at least** a single delivery tray 12....The motor 21 and displacement cam 22 delivers a set of randomly mixed playing cards to a single delivery tray 12. The formed set of randomly mixed playing cards from the single delivery tray is manually withdrawn and delivered to a player, with all playing cards in the individual set delivered at the same time, col. 8, lines 11-14. A second set of randomly mixed playing cards is formed within the same delivery tray after the first set of cards is removed from the single delivery tray.”

The exact limitations in the claims that are not shown by Kelley will be specifically highlighted below, but a brief technical distinction between the two systems will be helpful in preparing for an appreciation of those arguments.

Kelley teaches a dealing module in which cards are provided in a first card receiver and then cards are individually directed along a moveable chute to a multiplicity of card delivery trays. The system of Kelley cannot function without the multiplicity of card delivery trays, and direct transporting of cards from the card receiver to the multiplicity of delivery trays is the only hand forming mechanism shown.

The system of the presently claimed technology teaches a dealing module in which cards are first provided in a first card receiver, then cards are moved to form sets of randomized cards in multiple trays within the module, and then sets of cards are unloaded into a single delivery tray to form a hand that is then removed. Hands are removed one-at-a-time from the one and only delivery tray. Additional single hands are then formed in the same delivery tray after a previous hand was removed. As can be seen, the two mechanisms are substantively and functionally different.

#### **Comparison of Kelley and Claims in This Application**

| <b>CLAIM 44</b>   | <b>KELLEY</b>   | <b>COMMENTS</b>  |
|---|---|--|
| 44. A method for delivering hands of randomly mixed cards from an apparatus comprising:<br><br>providing at least one deck of playing cards;                                  | A playing card distribution device with microprocessor and scanning circuits. The device has an enclosure for holding a deck of cards   |  |
| forming at least one set of cards within the apparatus from the at least one deck of playing cards;   | “Underneath this compartment are five holding receptacles with notched base 13 and end 12 to hold the cards after they pass through the device.”  | Multiple trays for removal of cards are required in all variations of Kelley.<br>The hand forming compartments of Kelley can be argued to be a plurality of card-receiving compartments. |
| <u>delivering to a single delivery tray from the at least one set of cards within the apparatus a first individual set of randomly mixed playing cards for use in a game;</u> | Kelley does deliver cards to at least one tray, but the claim requires that cards be delivered as a random set to a single tray. If Kelley delivers cards to only a single tray, they cannot be random, but will be in the order off the top of the deck. | <b>This factor becomes of even greater importance in the next step in the claim.</b>   |
| <u>delivering to a player</u>   | <b>There is absolutely no</b>   | <b>To provide random cards</b>   |

|  |   |   |
|--|---|---|
| <u>or dealer the first individual set of randomly mixed playing cards from the single delivery tray of the apparatus, with all cards in the first individual set delivered at the same time, and then providing a second individual set of randomly mixed playing cards into the single delivery tray.</u> | equivalent element or function in Kelley. There can be no anticipation. | in Kelley, cards must be delivered among the multiple trays in Kelley. Cards cannot be fed to a single tray, a hand removed, and then cards from the original deck placed into the same single delivery tray. If that were done, there would be absolutely no randomizing effect. Cards would be provided as hands as the first 13 cards, the second 13 cards, the third 13 cards and the fourth 13 cards, without any variation. |
|--|---|---|

As can be seen, Kelley operates in a fundamentally different manner and does not anticipate the claim. Kelley cannot replace cards in a single tray, because when a hand is removed, the complete deck has been dealt. Cards also cannot be placed randomly within a single tray, without other trays being used to collect random trays. This again disables any capability of the system to provide a subsequent hand to a single tray when the first hand has been removed. This limitation is assured to be not anticipated by Kelley because of the limitation that “all cards in the first individual set delivered at the same time.” As Kelley teaches his device solely for use with the card game of bridge, a hand is always 13 cards, and to reach that number in each tray of randomly distributed cards, the 52 cards in the deck must be exhausted from the input tray. A second hand could not be constructed within the single output tray, even if commanded by the system of Kelley, which it is not.

#### Independent Patentability of Claim 45

45. (CURRENTLY AMENDED) The method of claim 39 wherein individual sets of randomly mixed playing cards are delivered to the single delivery tray and the single delivery tray in the apparatus can be accessed so that two edges of cards in the delivery tray can be contacted by a hand of a dealer.

The **highlighted** text is completely missing from Kelley. Kelley's hands can only be accessed within the tray along a single edge.

Independent Patentability of Claim 49

49. (CURRENTLY AMENDED) The method of claim 38 wherein each set of randomly mixed playing cards delivered from the apparatus to the tray is then delivered to a position on a gaming table that is distinct from a position where another set of randomly mixed playing cards is delivered **from that same tray in a single card game.**

The **highlighted** text is completely missing from Kelley.

Independent Patentability of Claim 51

51. (PREVIOUSLY PRESENTED) A method in an apparatus for delivering hands of randomly mixed cards comprising:

- providing at least one deck of playing cards in the apparatus;
- forming a first group of randomly mixed playing cards in a single delivery tray, with all cards in the group present in the single delivery tray at the same time;
- removing the group of randomized cards from the single delivery tray;
- forming a second individual group of randomly mixed playing cards within the same single delivery tray after the first group of randomized cards are removed in the play of a single round of cards.**

Again, as identically argued above with respect to claim 44, Kelley must form hands of 13 cards in each of the four trays to be able to form random hands. Once a random hand has been formed and completed in a single tray, no second hand is or can be formed in that single tray. There is absolutely no teaching or capability of that step in Kelley.

The **highlighted** text is completely missing from Kelley.

Independent Patentability of Claim 53

53. (PREVIOUSLY PRESENTED) The method of claim 51 wherein **after at least one individual hand is manually removed from the delivery tray, another individual hand is automatically delivered from the apparatus to the delivery tray.**

The automatic function is completely absent from Kelley based upon the removal of cards. Kelley operates in a single initiated process with the entire deck exhausted in delivering the four hands of 13 cards each into the four trays.

The **highlighted** text is completely missing from Kelley.

As can be readily seen by the detailed literal comparison, every single independent claim contains substantive limitations that are not disclosed by Kelley. Numerous other dependent claims, even if dependent from claims that were anticipated by Kelley (which they are not), would not be anticipated because of their additional limitations.

These claims are not anticipated by Kelley.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance. The Examiner is invited to telephone Applicant's attorney (953)832.9090 to facilitate prosecution of this application.

Respectfully submitted,

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Date: 2 MARCH 2006

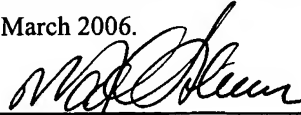
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I hereby certify that this correspondence is being transmitted by first class mail and deposited with the US Postal Service with first class postage prepaid and addressed to MAIL STOP: AF, PO BOX 1450, Commissioner for Patents; Alexandria, VA 22313-1450 on 2 March 2006.



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